



Fw: Avery
Joann Eskelsen to: Earl Liverman

03/16/2010 08:34 AM

History: This message has been replied to.

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----- Forwarded by Joann Eskelsen/LV/USEPA/US on 03/16/2010 08:33 AM -----

From: Mark Sprenger/ERT/R2/USEPA/US
To: Joann Eskelsen/LV/USEPA/US@EPA, Andy Zownir/ERT/R2/USEPA/US@EPA
Date: 03/11/2010 07:01 AM
Subject: Avery

Joann,

I took a quick look through the EECA,

Unless I missed something, I do not believe they did a credible eco evaluation. Credible work would not be hard or long to do, at this point it may be problematic with the need for a biological assessment. They state that they need a biological assessment for the bull trout. That is correct, or at least I believe it is. There should have been a consultation with the Fish and wildlife service, if I remember correctly, that will start a clock on requirements. We do not do a lot of these but this is a case where the presence of T&E species actually or likely occurs as well as 2 State listed species and they may really be present as well. Once we do the biological assessment, the FWS has a defined time period to make an "injury determination". That may be an important factor in the site actions, not only what is done but when it can be done. So....deciding on a remedy and then doing the biological assessment does not make any sense to me. They need the biological assessment first.

If you need more than this or need this more formally, I can do that, I could make some investigation suggestions, but I would really rather physically see the place before I did that, given the T&E issue making an error could be a bad thing. There is a real chance that the biological assessment will conclude that there is not injury (that's a legal term under the endangered species act) but the work needs to be credible and that credible work could take a while to do (seasonal timing issues). I would suggest that the study get going really fast if that want to make determinations this year, spring collection/evaluation efforts could be critical).

mark

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